

Bold = new language

~~Strikeout~~ = existing language deleted in this rulemaking

Bold and single underline = new language added since preliminary adoption

~~Strikeout and single underline~~ = existing language deleted since preliminary adoption

TITLE 326 AIR POLLUTION CONTROL DIVISION

PROPOSED RULE AS PRELIMINARILY ADOPTED WITH IDEM'S SUGGESTED CHANGES INCORPORATED

LSA Document #12-636

DIGEST

Amends 326 IAC 2-11-2, 326 IAC 8-4-1, and 326 IAC 8-4-6 concerning stage II vapor recovery system requirements. Effective 30 days after filing with the Publisher.

HISTORY

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Date of Second Hearing: November 12, 2014.

326 IAC 2-11-2; 326 IAC 8-4-1; 326 IAC 8-4-6

SECTION 1. 326 IAC 2-11-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-11-2 Gasoline dispensing operations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. (a) This section applies to retail or commercial gasoline dispensing operations that:

- (1) meet the conditions specified in subsection (b); and
- (2) demonstrate compliance as specified in subsection (c).

(b) To limit potential to emit as provided in section 1(c) of this rule, ~~the following conditions are applicable to sources depending on their location:~~ **gasoline dispensing operations shall comply with the following conditions based on an average monthly throughput for the last twelve (12) months:**

(1) For sources located in Clark or Floyd County, the source:

- (A) fills its storage tanks by vapor-balanced fill;
- (B) has a Stage II vapor recovery system; and
- (C) dispenses less than five million three hundred seventy-six thousand (5,376,000) gallons of gasoline during an average month based on the last twelve (12) months.

(2) For sources located in Lake or Porter County, the source:

- (A) fills its storage tanks by vapor-balanced fill;
- (B) has a Stage II vapor recovery system; and
- (C) dispenses less than one million three hundred forty-four thousand (1,344,000) gallons of gasoline during an average month based on the last twelve (12) months.

(3) For all other sources, the source uses:

(A) **(1) For the splash method for filling storage tanks, and dispenses the operation shall dispense** less than six hundred eighty-eight thousand (688,000) gallons of gasoline.

(B) **(2) For the submerged fill method for filling storage tanks, and dispenses the operation shall dispense** less than eight hundred thirty-three thousand (833,000) gallons of gasoline.

(C) **(3) For the vapor-balanced fill method for filling storage tanks, and dispenses the operation shall dispense** less than one million two hundred eighty-two thousand (1,282,000) gallons of gasoline. ~~or~~

(D) **(4) For an operation that uses the fill vapor-balanced fill method for filling storage tanks, and has a stage II vapor recovery system, and dispenses the operation shall dispense** less than five million three hundred seventy-six thousand (5,376,000) gallons of gasoline.

during an average month based on the last twelve (12) months.

(c) ~~Sources~~ **Gasoline dispensing operations** electing to comply with this rule must be able to demonstrate compliance ~~no~~ **not** later than thirty (30) days after receipt of a written request by the department or the U.S. EPA, as follows:

(1) The owner or operator of a gasoline dispensing ~~source operation~~ **source operation** shall demonstrate compliance with subsection (b)(3)(A), (b)(3)(B), or (b)(3)(C), **(b)(1), (b)(2), or (b)(3)** as applicable.

(2) The owner or operator of a gasoline dispensing ~~source subject to operation described in~~ **source subject to operation described in** subsection (b)(3)(D) **(b)(4)** shall demonstrate compliance with subsection (b)(3)(D)

(b)(4) and 326 IAC ~~8-4-6(a) through 326 IAC 8-4-6(d), 326 IAC 8-4-6(f), and 326 IAC 8-4-6(j) through 326 IAC 8-4-6(m).~~ **326 IAC 8-4-6.**

~~(3) The owner or operator of a gasoline dispensing source subject to subsection (b)(1) or (b)(2) shall demonstrate compliance with subsection (b)(1) or (b)(2), as applicable, and 326 IAC 8-4-6.~~

(Air Pollution Control Division; 326 IAC 2-11-2; filed May 7, 1997, 4:00 p.m.: 20 IR 2316; filed Aug 2, 2004, 3:25 p.m.: 27 IR 3956)

SECTION 2. 326 IAC 8-4-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 8-4-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) All sections of this rule apply to sources ~~of the types as~~ described in **the applicable section of** this rule **and** located in the following counties:

- (1) Clark.
- (2) Elkhart.
- (3) Floyd.
- (4) Hendricks.
- (5) Lake.
- (6) Marion.
- (7) Porter.
- (8) St. Joseph.

(b) Sections 4 through 7 and 9 of this rule apply to sources ~~of the types as~~ described in **the applicable section of** this rule **and** located in the following counties:

- (1) Boone.
- (2) Dearborn.
- (3) Hamilton.
- (4) Hancock.
- (5) Harrison.
- (6) Johnson.
- (7) Morgan.
- (8) Shelby.

(c) Sections 2 through 5 and 7 through 9 of this rule apply to all new sources of the types described in this rule as of January 1, 1980.

(d) Section 6(a) and 6(b) of this rule apply to any gasoline storage tank at a gasoline dispensing facility with a monthly gasoline throughput of ten thousand (10,000) gallons per month or greater.

(e) **Unless a stage II vapor recovery system is decommissioned in accordance with section 6(d) of this rule, a gasoline dispensing facility with a stage II vapor recovery system in the following counties shall comply with** ~~section 6(c) of this rule: applies to gasoline dispensing facilities as described in section 6(c)(1) of this rule and located in:~~

- (1) Clark.
- (2) Floyd.
- (3) Lake. ~~or~~
- (4) Porter.

~~County.~~

(f) Section 6(d) of this rule applies to a gasoline dispensing facility with a stage II vapor recovery system that plans to decommission the stage II vapor recovery system. *(Air Pollution Control Division; 326 IAC 8-4-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2538; filed Aug 11, 1989, 1:40 p.m.: 13 IR 7; filed Apr 23, 1999, 2:12 p.m.: 22 IR 2855; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Apr 15, 2010, 4:05 p.m.: 20100512-IR-326070353FRA)*

SECTION 3. 326 IAC 8-4-6 IS AMENDED TO READ AS FOLLOWS:

326 IAC 8-4-6 Gasoline dispensing facilities

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 13-12-3-1

Sec. 6. (a) The following definitions apply throughout this section:

- (1) "Average monthly volume" means the amount of motor fuel dispensed per month from a gasoline dispensing facility based upon a monthly average for a two (2) year period from November 1990 through October 1992, or, if not available, the monthly average for the most recent twelve (12) calendar months. Monthly averages shall include only those months when the facility was operating.
- (2) "CARB" means the California Air Resources Board.
- (3) "Certified" means any vapor collection and control system that has been tested and approved by CARB as having a vapor recovery and removal efficiency of at least ninety-five percent (95%) by weight.
- (4) "Constructed" means fabricated, erected, or installed and refers to any facility, emission source, or air pollution control equipment.
- (5) "Dynamic ~~backpressure~~ **pressure drop** test" means a test procedure used to determine the pressure drop (flow resistance) through vapor collection and control systems, including:
 - (A) nozzles;
 - (B) vapor hoses;
 - (C) swivels;
 - (D) dispenser piping; and
 - (E) underground piping;

at prescribed flow rates. Test procedures for this test can be found in EPA 450/3-91-022b, "Technical Guidance—Stage II Vapor Recovery Systems for Control of Vehicle Refueling

Emissions at Gasoline Dispensing Facilities"*.

(6) "Employee" means any person who performs work for an employer for compensation.

(7) "Facility" means any:

(A) building;

(B) structure;

(C) installation;

(D) operation; or

(E) combination located on contiguous properties and under common ownership; that provides for the dispensing of motor vehicle fuel.

(8) "Gasoline dispensing facility" means any facility where gasoline is dispensed into motor vehicle fuel tanks or portable containers from a storage tank with a capacity of nine hundred forty-six (946) liters (two hundred fifty (250) gallons) or more. Diesel fuel and kerosene are not considered to be motor vehicle fuels.

(9) "Independent small business marketer of gasoline" means a person engaged in the marketing of gasoline who:

(A) is not a refiner;

(B) does not control, is not controlled by, or is not under common control with a refiner;

(C) is not otherwise directly or indirectly affiliated with a refiner or a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to in this subdivision is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person); and

(D) receives less than fifty percent (50%) annual income from the marketing of gasoline.

(10) "Liquid blockage test" means a test procedure used to detect low points in any vapor collection and control system where condensate may accumulate. Test procedures can be found in EPA 450/3-91-022b, "Technical Guidance—Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities"*.

(11) "Modification" means any change, removal, or addition, other than a certified replacement of any component contained within the vapor collection system and control system.

(12) "Motor vehicle" means any self-propelled vehicle powered by an internal combustion engine, including, but not limited to, the following:

(A) Automobiles.

(B) Trucks.

(C) Motorcycles.

(13) "Motor vehicle fuel" means any petroleum distillate having a Reid vapor pressure of more than four (4) pounds per square inch and that is used to power motor vehicles. Diesel fuel and kerosene are not considered to be motor vehicle fuels.

(14) "Owner or operator" means any person who:

(A) owns;

(B) leases;

- (C) operates;
- (D) manages;
- (E) supervises; or
- (F) controls;

directly or indirectly, a gasoline dispensing facility.

(15) "Pressure decay or leak test" means a test procedure used to quantify the vapor tightness of a vapor collection and control system installed at gasoline dispensing facilities. Test procedures can be found in EPA 450/3-91-022b, "Technical Guidance—Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities"*.

(16) "Vapor collection and control systems" means any system certified by CARB that limits the discharge to the atmosphere of motor vehicle fuel vapor displaced during the dispensing of motor vehicle fuel into motor vehicle fuel tanks.

(b) Stage I vapor recovery system requirements at gasoline dispensing facilities are as follows:

(1) No owner or operator of a gasoline dispensing facility shall allow the transfer of gasoline between any transport and any storage tank unless the tank is equipped with the following:

(A) A submerged fill pipe that extends to not more than:

- (i) twelve (12) inches from the bottom of the storage tank if the fill pipe was installed on or before November 9, 2006; or
- (ii) six (6) inches from the bottom of the storage tank if the fill pipe was installed after November 9, 2006.

(B) Either a pressure relief valve set to release at not less than seven-tenths (0.7) pounds per square inch or an orifice of five-tenths (0.5) inch in diameter.

(C) A vapor balance system connected between the tank and the transport operating according to manufacturer's specifications.

(2) If the owner or employees of the owner of a gasoline dispensing facility are not present during loading, it shall be the responsibility of the owner or the operator of the transport to make certain the vapor balance system is:

- (A) connected between the transport and the storage tank; and
- (B) operating according to manufacturer's specifications.

(c) Stage II vapor recovery system requirements at gasoline dispensing facilities are as follows:

(1) **Unless a stage II vapor recovery system is decommissioned in accordance with subsection (d), the provisions of subdivision (2) shall apply to any gasoline dispensing facility that has a stage II vapor recovery system and is located in any of the following counties:**

- (A) Clark.
- (B) Floyd.
- (C) Lake. or
- (D) Porter. ~~County except if the gasoline dispensing facility:~~

- (A) dispenses an average monthly volume of less than ten thousand (10,000) gallons of gasoline per month; or
- (B) is an independent small business marketer of gasoline who dispenses an average monthly volume of less than fifty thousand (50,000) gallons of gasoline per month.
- (2) **No** An owner or operator of a gasoline dispensing facility **with a stage II vapor recovery system** shall ~~cause or allow the dispensing of motor vehicle fuel at any time unless all motor vehicle fuel dispensing operations are equipped with and~~ utilize a certified vapor collection and control system that is properly installed and operated as follows:
- (A) No vapor collection and control system shall be ~~installed~~; used or maintained unless the system
- ~~(i) has been certified by CARB. and~~
- ~~(ii) meets the testing requirements specified in subdivision (7)(F).~~
- (B) Any vapor collection and control system utilized shall be maintained in accordance to its certified configuration and with the manufacturer's specification and maintenance schedule.
- (C) No elements or components of a vapor collection and control system shall be:
- (i) modified;
- (ii) removed;
- (iii) replaced; or
- (iv) otherwise rendered inoperative;
- in a manner that prevents the system from performing in accordance with its certification and design specifications.
- (D) A vapor collection and control system shall not be operated with defective, malfunctioning, missing, or noncertified components. The following requirements apply to a vapor collection and control system:
- (i) All parts of the system that can be visually inspected must be checked daily by the operator of the facility for the following malfunctions:
- (AA) Absence or disconnection of any component required to be used to certify the system.
- (BB) A vapor hose that is crimped or flattened such that the vapor passage is blocked or severely restricted.
- (CC) A nozzle boot that is torn in either of the following manners:
- (aa) A triangular shaped or similar tear one-half (1/2) inch or more to a side or a hole one-half (1/2) inch or more in diameter or length.
- (bb) Slit one (1) inch or more in length.
- (DD) A faceplate or flexible cone that is damaged in the following manner:
- (aa) For balance nozzles and nozzles for aspirator and educator assist type systems, damage shall be such that the capability to achieve a seal with a fill pipe interface is affected for one-fourth (1/4) of the circumference of the faceplate (accumulated).

(bb) For nozzles for vacuum assist type systems that use a flexible cone, having more than one-fourth (1/4) of the flexible cone missing.

(EE) A nozzle shutoff mechanism that malfunctions in any manner.

(FF) A vacuum producing device that is inoperative.

(ii) Any defect in the system that is discovered in item (i) will require the immediate shutdown of the affected pumps until proper repairs are made.

(iii) A signed daily log of the daily inspection in item (i) shall be maintained at the facility.

(iv) One (1) operator or employee of the gasoline dispensing facility shall be trained and instructed annually in the proper operation and maintenance of a vapor collection and control system.

(v) Instructions shall:

(AA) be posted in a conspicuous and visible place within the motor vehicle fuel dispensing area for the system in use at that station;

(BB) clearly describe how to fuel vehicles correctly with the vapor recovery nozzles utilized at that station; and

(CC) include a warning that repeated attempts to continue dispensing motor vehicle fuel after the system has indicated that the vehicle fuel tank is full may result in a spillage of fuel.

~~(3) Facilities subject to the requirements of subdivision (2) shall demonstrate compliance according to the following schedule:~~

~~(A) Six (6) months after promulgation in the case of gasoline dispensing facilities for which construction commenced after the date of enactment of the Clean Air Act Amendments of 1990 (November 15, 1990).~~

~~(B) One (1) year after promulgation in the case of gasoline dispensing facilities that dispense at least one hundred thousand (100,000) gallons of gasoline per month, based on average monthly sales for the two (2) year period prior to November 15, 1992.~~

~~(C) Two (2) years after promulgation in the case of all other gasoline dispensing facilities.~~

~~(D) Any gasoline dispensing facility described in both clauses (A) and (B) shall meet the requirements of clause (A).~~

~~(E) New facilities constructed after the promulgation of this rule shall comply with the requirements of subdivision (2) upon startup of the facility.~~

~~(F) Existing facilities previously exempted from, but that become subject to, the requirements of subdivision (2) shall comply with the requirements of subdivision (2) within one (1) year from the date the facility became subject.~~

~~(4) Any gasoline dispensing facility that becomes subject to the provisions of subdivision (2) at any time shall remain subject to the provisions of subdivision (2) at all times.~~

~~(5) (3) Any gasoline dispensing facility subject to subdivision (2) shall retain copies of all records and reports adequate to clearly demonstrate the following:~~

~~(A) That a certified vapor collection and control system has been installed and tested~~

to verify its performance according to its specifications.

(B) That proper maintenance has been conducted in accordance with the manufacturer's specifications and requirements.

(C) The time period and duration of all malfunctions of the vapor collection and control system.

(D) The motor vehicle fuel throughput of the facility for each calendar month of the previous year.

(E) That operators and employees are trained and instructed in the proper operation and maintenance of the vapor collection and control system.

~~(6)~~ (4) All records and reports required in subdivision ~~(5)~~ (3) shall be made available to the department upon request. All records shall be retained for a period of two (2) years.

~~(7)~~ Within forty-five (45) days after the installation of a vapor collection and control system, the owner or operator of the gasoline dispensing facility shall submit to the department a registration form, which shall be provided by the department of environmental management, office of air quality, that provides, at a minimum, the following:

~~(A) The name, address, and telephone number of the facility.~~

~~(B) The signature of the owner or operator.~~

~~(C) The CARB executive order number for the vapor collection and control system to be utilized.~~

~~(D) The number of nozzles, excluding diesel and kerosene, used for motor vehicle refueling.~~

~~(E) The monthly average volume of motor vehicle fuel dispensed.~~

~~(F) The date of completion of installation of the vapor collection and control system. Completion of installation includes the successful passing of a vapor leakage and blockage test. A vapor leakage and blockage test must, at a minimum, include the following:~~

~~(i) A pressure decay or leak test.~~

~~(ii) A dynamic pressure drop test.~~

~~(iii) A liquid blockage test.~~

~~The results of these tests must be submitted with the registration form specified in this subdivision.~~

~~(8)~~ (5) All vapor collection and control systems shall be retested for vapor leakage and blockage, and successfully pass the test, at least every five (5) years or upon major system replacement or modification. A major system modification is considered to be replacing, repairing, or upgrading seventy-five percent (75%) or more of a vapor collection and control system of a facility.

(d) A stage II vapor recovery system at a gasoline dispensing facility in Clark, Floyd, Lake, or Porter counties must be maintained in accordance with subsection (c), unless the owner or operator decommissions the stage II vapor recovery system as follows:

(1) The owner or operator shall notify the department of the intent to decommission the stage II vapor recovery system.

(2) The owner or operator shall decommission the stage II vapor recovery system in

accordance with section 14 of the 2009 "Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle Refueling Sites"* of the Petroleum Equipment Institute.

(3) The owner or operator shall complete decommissioning within one hundred (100) calendar days from notification to the department.

(e) After the effective date of this rule, a stage II vapor recovery system is not required in Clark, Floyd, Lake, or Porter counties for:

(1) a new gasoline dispensing facility; or

(2) an existing gasoline dispensing facility that has been decommissioned in accordance with subsection (d).

~~(d)~~ (f) Upon request by the department, the owner or operator of a gasoline dispensing facility that claims to be exempt from the requirements of this section shall submit records to the agency within thirty (30) calendar days from the date of the request that demonstrate that the gasoline dispensing facility is in fact exempt.

~~*This document is~~ ***These documents** are incorporated by reference. Copies are available for review and copying at the Indiana Department of Environmental Management, Office of ~~Air Quality~~, **Legal Counsel**, Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Division; 326 IAC 8-4-6; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2540; filed Aug 11, 1989, 1:40 p.m.: 13 IR 8; filed Nov 30, 1990, 4:20 p.m.: 14 IR 605; filed Oct 28, 1993, 5:00 p.m.: 17 IR 332; filed Sep 18, 1995, 3:00 p.m.: 19 IR 203; errata filed Dec 11, 1995, 3:00 p.m.: 19 IR 674; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3349; errata filed Feb 18, 1997, 4:00 p.m.: 20 IR 1738; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Aug 26, 2004, 11:30 a.m.: 28 IR 47; filed Apr 15, 2010, 4:05 p.m.: 20100512-IR-326070353FRA*)